

**Testimony
of
Robert Short, Jr.
President, Short Broadcasting Co., Inc.
Before the
Committee on Commerce, Science and Transportation
of the
United States Senate
January 30, 2003**

Good Morning Chairman McCain and members of the Committee. My name is Robert Short Jr., and I am the President of Short Broadcasting Co., Inc. I am also a former member of the Board of Directors of the National Association of Black Owned Broadcasters, Inc. (NABOB). I thank you for inviting me to testify this morning. It is a pleasure to have the opportunity to talk about the negative effects upon the American public resulting from the excessive consolidation of ownership in the broadcast industry since the passage of the Telecommunications Act of 1996.

1. Summary

Short Broadcasting sold our only broadcast station, WRDS, Syracuse, New York, in 2000, after a brief five and a half years on the air. WRDS is a victim of the Telecommunications Act of 1996. We were a stand-alone radio station providing a locally owned and programmed voice for the African American community of Syracuse. We provided local news and public affairs programming without regard to oversight from any distant corporate parent. WRDS carried news stories that other media ignored. We allowed individuals on our station in our public affairs programming who were not invited to speak on other stations. We hired people with no broadcast experience and taught them the business.

I understand that the Committee is considering whether consolidation under the Telecommunications Act has resulted in excess concentration of ownership in the broadcast industry. I also understand the FCC is considering how it can demonstrate to the courts through evidence to be developed by economists and lawyers whether there is a need to have any rules limiting broadcast ownership. I know that NABOB has addressed

these issues in its Comments in the FCC's rulemaking proceeding examining its ownership rules. NABOB identified several research studies that demonstrated that minority ownership of broadcast stations promotes diversity of viewpoints.

What I would like to do today is give you a specific example of the diversity of viewpoint provided by my station, WRDS in Syracuse, New York, and the market forces that forced us to sell. It was not my desire to sell WRDS when we did. We sold because we were unable to compete with Clear Channel. Clear Channel had, and continues to have, more than a fifty percent revenue share in the Syracuse market. With its ownership of over 1200 radio stations nationwide, and seven radio stations in the Syracuse market, Clear Channel was able to exercise market power with advertisers in a manner with which we were unable to compete. In addition, Citadel, which has over 200 radio stations across the country, had four stations in the market and a twenty five percent revenue share. The market dominance of Clear Channel and Citadel made it impossible for WRDS to continue to operate in the market.

I believe the story of WRDS demonstrates clearly that Congress should limit any further consolidation in the radio industry, and should reverse some of the excesses that have been created by the Telecommunications Act of 1996. The story of WRDS shows that one of the principal reasons Congress should prevent any further consolidation in the radio industry is because the ills of consolidation cannot be measured by economists and lawyers. No one retains records of which news stories stations cover. No one retains records of who is invited to speak on the public affairs programs of radio stations. However, from the letters, phone calls, and in-person expressions of thanks and congratulations we received during our time on the air, I know that we were able to provide a voice in Syracuse that had not been provided before our arrival, and has not been provided since our sale.

2. Background

Short Broadcasting was formed in May of 1988, when I filed an application at the Federal Communications Commission (FCC) for a construction permit to build an FM radio station licensed to Phoenix, New York, which is part of the greater Syracuse metropolitan area. I was one of

seven original applicants to compete for the new station. I was required to participate before the FCC in a costly and time-consuming comparative hearing. In November 1993, the FCC ruled that I was the winning applicant for the new FM channel. In May 1995, I completed the construction of the new station and was granted the call sign WRDS.

WRDS-FM was locally owned and operated, and was the first African American owned radio station in Syracuse history. When WRDS debuted, it was one of only three African American owned commercial FM radio stations in the State of New York. The other two African American owned commercial FM stations in New York State at that time were WBLS in New York City and WDKX in Rochester.

3. The Format

WRDS had an urban format and became an instant success with the Syracuse urban community. WRDS offered quality urban programming and lifestyle information that had never before been available to the Syracuse urban community. WRDS provided local entertainment programming daily with a local live air staff, consisting of six air personalities. Our local air personalities reported local news, traffic and weather every half hour during morning drive-time, and we provided local traffic and weather during afternoon drive-time.

We provided public affairs programming throughout the broadcast day. Our air personalities would discuss issues of importance to the local community as those issues arose during our regular programming. These public affairs discussions would range from discussions of current news stories to solicitation of funds for community organizations. These impromptu discussions of public affairs were in addition to the broadcast of programs specifically devoted to public affairs, which we also did.

In addition, WRDS connected African Americans in Syracuse to African Americans nationally by providing nationally syndicated shows such as *The Tom Joyner Morning Show*, *The Doug Banks Show*, *On The Air With Russ Parr*, and was an affiliate of *ABC Radio Networks*, *the American Urban Radio Network*, and *Superadio Network*.

I was the general manager and program director for WRDS. I exercised ultimate control over all programming and music. We did not play songs that were overly controversial or had explicit lyrics. In many cases, we refused to play songs that were hits across other parts of the nation, solely because we strongly believed the songs would be considered offensive by the majority of our audience.

4. The Benefits of Diversity

WRDS brought diversity to the Syracuse airwaves. WRDS served the urban community on a daily basis, and was the most effective medium available to reach African Americans in Syracuse. Public service announcements were being aired on WRDS that no other radio or television station carried. For many local business owners WRDS was the only viable outlet to reach their target demographic at an affordable price.

With the exception of the years that I was in college, I have lived in Syracuse, New York since 1968. I used my long-standing residency to build a strong working relationship between WRDS and the Syracuse community.

WRDS specialized in providing programming designed specifically for the Syracuse urban community. News stories that were unreported or considered minor stories by other mainstream media outlets were often the lead story on the WRDS morning news. WRDS preempted regularly scheduled programming to cover issues of local concern on a frequent basis.

It was common practice for WRDS to interview African American elected officials, as well as those who were running for office, during our drive time programs, regardless of whether it was during an election period. When problems such as gun violence or bomb threats became commonplace in the inner city schools and neighborhoods, I would personally give editorials or put professional counselors on the air to address these issues and offer strategies and solutions to these type of problems.

WRDS was a business partner with the Syracuse City School District. WRDS frequently publicized issues and activities regarding the public schools. WRDS sponsored numerous Syracuse City School field trips and provided tours of the radio station for elementary students. WRDS offered teenagers and young adults the opportunity to shadow our staff so that they

could learn first hand about the job duties and responsibilities of a radio broadcaster. WRDS sponsored many other youth oriented events such as a citywide Halloween Party at the Carousel Center, Syracuse's largest mall. I was invited to speak at most of the Syracuse public high schools, as well as at middle schools and elementary schools. At Solace Elementary School, I was asked to speak numerous times, including at graduation.

WRDS sponsored an on-air promotion that sent approximately five hundred youth to see an NBA exhibition basketball game between the New York Knicks and the Cleveland Cavaliers at the Carrier Dome. WRDS also sent an estimated one thousand young children and their parents to an ice hockey game with the Syracuse Crunch, a minor league professional hockey team. After the game, all of the children were invited to skate on the ice with the Syracuse Crunch players and given a souvenir.

WRDS promoted on-air and sponsored family and unity days at a county park, along with numerous plays, concerts, dance recitals, and comedy shows. WRDS co-sponsored events hosted by civic organizations, such as the NAACP and the Urban League. In 1999, I was the keynote speaker for the Utica, New York NAACP Annual Awards Banquet.

For three years, I represented WRDS by serving on the board of directors for the Urban League of Onondaga County. WRDS worked closely with the Urban League and the NAACP to discuss on-air events such as voter registration drives, and attempts to find missing persons, such as in the case of April Gregory, a young woman who was missing for a year before being found dead. While I served on the board of directors for the Urban League, WRDS also co-sponsored an urban job fair that led to African Americans being hired at area companies. WRDS also teamed up with the Urban League to sponsor a family picnic at Kirk Park, which is in the heart of the inner city of Syracuse.

WRDS promoted on-air and sponsored several health fairs in conjunction with the Syracuse Community Health Center and the Veterans Administration Hospital. At the health fairs, WRDS worked with corporate partners to provide free immunizations to low-income individuals and free bicycle helmets for children under sixteen to increase safety during the summer months. WRDS assisted individuals with being tested for diabetes, high blood pressure, and gave out information about ways to prevent the

spread of HIV and AIDS.

WRDS air personalities regularly promoted on-air and served as masters and mistresses of ceremonies for events such as the Urban League's Harriet Tubman Awards Dinner and nearly every major urban concert or gospel play that came to Syracuse. When, Dr. Jennifer Daniels, an African American and native Syracusan, had her medical license suspended by the State of New York, WRDS brought the issue before the entire urban community, hosted rallies, and spoke on her behalf. WRDS took the position that Dr. Daniels was the only doctor with a private medical practice in the heart of the inner city, and argued that the State's decision to revoke her license to practice medicine was unjust, given that all charges stemmed from her prescribed treatment to just one patient. We pointed out that she had many inner city patients, all of whom were satisfied with her services. WRDS assisted Dr. Daniels with her appeal that went before Governor George Pataki.

While operating WRDS, I also served on the board of directors for the Inner City Little League. WRDS solicited funds on-air and donated money to the Inner City Little League in order to allow the teams to purchase uniforms and equipment, provide insurance for the players and assist with covering the cost to have league umpires. We did this because many of the youngsters came from families that were unable to pay the required league fees.

We assisted the Inner City Baseball League with letter writing and visits to the Syracuse Commissioner of Parks and Recreation, city council members, and ultimately the mayor, in order to get an outfield fence and portable toilets installed at Homer Wheaton Park, the home field for Inner City Little League. I also coached a team in the Inner City League for three years. WRDS has also sponsored the Bidy Basketball League at the Syracuse Boys and Girls Club. Each year WRDS purchased uniforms or trophies for each player. WRDS would also broadcast live from the Syracuse Boys and Girls Club and give away promotional items to the children. WRDS used this opportunity to allow its disc jockeys to talk to the children about the importance of abstinence from drugs, sex and violence. We also encouraged the children at the Syracuse Boys and Girls Club not to drop out of school.

On several occasions, I was invited to speak to students at the Syracuse University Newhouse School of Communications about what will be expected of them upon graduation and their entrance into the broadcast industry. I also spoke at Le Moyne College, of Syracuse, at an Upward Bound Program about how to prepare yourself for college and success.

WRDS also co-promoted on-air Black College Fairs with local African American sororities. WRDS assisted fraternities such as Kappa Alpha Psi and Omega Psi Phi with scholarship fundraisers. WRDS co-sponsored organizations such as Fire Fighters of Color United in Syracuse with scholarship drives.

5. The Disadvantages Created by Consolidation

Yet, with all of the community success that we experienced, it was difficult for WRDS to survive. Because of all of our hard work to serve the community and develop a connection with the community, WRDS was very successful in the Arbitron ratings. Initially, we usually received approximately about a 3.5 to 4.0 audience share, which would rank us approximately 10th out of the 19 stations Arbitron listed in the market. In our last year of operation, we managed to obtain a 5.1 share. In addition, we ranked number 1 or 2 with adults 18-34 years old in some day-parts, and we usually had the highest time-spent-listening in the market. Nevertheless, WRDS found it very difficult to convert this audience rating success into advertising revenue and financial success.

WRDS was a stand-alone station that was forced to compete against media giants with multiple stations in the Syracuse market. Clear Channel Communications is one of the giants that competed directly against WRDS. Clear Channel had two stations in the Syracuse market that competed for the WRDS audience. These stations were, WWHT, a top forty pop/rhythmic channel that played many of today's young urban artists, and WHCD, now WPHR, which was an urban/smooth jazz station. WHCD played many of the adult urban artists with a blend of contemporary jazz.

As a stand-alone operator, WRDS was always at a huge disadvantage. WRDS could only offer advertisers one audience, and even then, it was fragmented by age groups. WRDS was day-parted to reach different age

groups during specific times of the day. This was done in order to serve the entire urban community. In the mornings and middays, WRDS targeted adults, and during the afternoons and evenings, it targeted young adults and teenagers.

WRDS's group owner competitors, particularly Clear Channel, Citadel, and Radio Corporation (now Galaxy), were able to deliver a specific age demographic all of the time by targeting a station to each of their desired target audiences, which was often the same age group as that targeted by WRDS. This allowed WRDS's competition the opportunity to combine the ratings from each of their stations, and then show advertisers how many more listeners they attracted than WRDS.

It is reported that Clear Channel captured more than fifty percent of all radio advertising dollars in Syracuse, and that Citadel brought in at least twenty-five percent. Radio Corporation captured an estimated thirteen percent of the radio ad revenue. Buckley Broadcasting took in an estimated nine percent of the market. This left only a very small amount of ad revenue for the remaining broadcasters, including Short Broadcasting, Salt City (also African American owned), Crawford Broadcasting, and CRAM Broadcasting.

6. Lack of Access to Station Representation Firms

Radio stations receive their advertising revenue from national, regional and local advertisers. In order to reach national and regional advertisers, radio stations hire station representation firms, which have offices in the major advertising markets around the country, such as New York City, Los Angeles and Chicago. The rep firms act as the sales agent for the stations in these distant cities to obtain advertising from advertising agencies and national advertisers with offices in these cities. Without a national rep firm, it is virtually impossible for a radio station in Syracuse, or any market, to obtain national advertising.

As a stand-alone operator in Syracuse, it was impossible for WRDS to obtain representation from a national rep firm. There are only two major national rep firms, Interep and Katz. Katz is owned by Clear Channel and, not surprisingly, treats representation of Clear Channel owned stations as its primary business. While Katz represents other non-Clear Channel owned

stations, many broadcasters question whether Katz's other clients receive representation equal to that provided to the Clear Channel owned stations. However, this was never a direct problem for WRDS, because, as a standalone station, WDRS was rejected by both Katz and Interep in favor of representation of stations owned by group owners, Clear Channel and Citadel. Interep and Katz would enter into non-compete agreements, preventing them from also representing independents such as Short Broadcasting.

7. Advertising Woes and Promotional Gimmicks

As noted above, usually the larger fortune five hundred companies spend most of their advertising budgets working through national advertising agencies and national rep firms, such as Interep or Katz, to place their buys. With such a system in place, the small independent broadcaster rarely gets significant national ad revenue. Unfortunately, WRDS faced this same problem at both the national and local levels. Locally, most of the ad agencies took an approach similar to that taken by the national ad agencies. The local ad agencies regularly placed ads for the biggest local advertisers on Clear Channel and Citadel stations because they offered a large package of stations.

My sales staff heard that Clear Channel would offer sales packages to advertisers that priced their urban radio station far below what WRDS was charging for advertising. It appears to me that such a practice should be prohibited by the antitrust laws. Unfortunately, Short Broadcasting was not in a financial position to take on Clear Channel, so we were never able to follow-up on these reports. Instead, we attempted to survive on small advertisers. Rarely, did WRDS receive advertising from the large local ad agencies.

In addition to the difficulties that WRDS experienced attracting major national and local advertisers, it was faced with the challenge of offering competitive on air promotions. Clear Channel and the other large broadcasting companies offered listeners chances to win large sums of money. In some cases, the prize advertised in the Syracuse market was up to \$1,000,000. These types of contests are deceptive and often misleading. Generally, big prize contests are tied into a national promotional campaign, with many listeners believing that the contest is local. These tactics often

influence listeners and the ratings, because a contestant must listen to the station with the big prize for the clues and the signal in order to win. This hurts independently owned and operated stations such as WRDS, which cannot offer similar big prizes.

8. Denial of Access to Capital

As the owner of WRDS, I experienced many difficulties attracting capital from local and national banks, venture capital firms and private investors. It was very difficult to attract capital from these sources, because operating a stand-alone station was a high-risk investment. Most investors wanted to invest in broadcast companies that owned a significant share of both market revenue and audience. This prevented WRDS from being able to expand like its competition.

9. Joint Sales Agreements

Many of the services that we wanted to add, such as a local talk show, expanded news coverage, etc., could not be added because the capital was not available to do so. At one point, Short Broadcasting entered into Joint Sales Agreements with Salt City Communications and Radio Corporation in an effort to counter the stranglehold Clear Channel and Citadel held on the market. Under both Joint Sales Agreements, WRDS maintained control over its programming, but allowed Salt City Communications and Radio Corporation to sell WRDS's commercial time at an agreed upon commission rate.

Arbitron requires each station in a Joint Sales Agreement to subscribe to its service if at least one station is an Arbitron subscriber. Because Radio Corporation was a subscriber, WRDS was required to subscribe to Arbitron. This created an additional annual expense of \$55,000.00 for a period of two years. The net impact of this added expense exceeded the total volume of sales brought in by Radio Corporation and Salt City combined. This set WRDS further back financially than it was when it entered into the Joint Sales Agreements.

Because of the lack of success of the Joint Sales Agreements, Short Broadcasting was not able to pay Arbitron. Arbitron threatened to force the sale of WRDS if necessary, to recover the money owed to them. WRDS was

forced to borrow money from Radio Corporation in order to pay Arbitron. This created a problem with the structure of the Joint Sales Agreement between Short Broadcasting and Radio Corporation. Consequently, because of the debt owed to Radio Corporation, WRDS was forced to let Radio Corporation keep all revenue it generated from the sale of airtime on WRDS until the loan we took out with Radio Corporation to pay off Arbitron was fully repaid. This meant many months passed during which WRDS received no commission from any sales made by Radio Corporation for WRDS. This strategy proved to be a major setback for WRDS and eventually led to the termination of the Joint Sales Agreements.

10. No Room for Stand-Alones to Make any Mistakes

I learned at this point that the greatest reality facing the small independent stand-alone operator is that mistakes can result in having to get out of the business. If the stand-alone operator loses a substantial sum in any given year, that company may be forced to sell the station to avoid experiencing bankruptcy both on the business and personal side. This is especially so if the stand-alone operator does not have a line of credit or access to capital. On the other hand, major companies who are publicly traded are able to absorb tremendous losses and slowdowns in the economy and remain in business. When this happens, there is very little that the stand-alone operator can do to recover.

11. WRDS is Gone

Today, WRDS no longer exists. After nearly five and a half years of being unable to compete from a revenue and operational standpoint, I was forced to sell WRDS to Radio Corporation, now renamed Galaxy Communications. Interestingly, Galaxy, a company that owned six stations in the Syracuse market, felt it needed to purchase WRDS in order for it to compete against Clear Channel and Citadel.

Since purchasing WDRS, Galaxy has changed its call letters to WZUN and has changed its format three times in an unsuccessful effort to capture a sizeable audience. In fact, the WZUN ratings are now among the lowest in the market, significantly lower than when it was WRDS. Now, Galaxy has nine stations in the Syracuse market, none of which caters to the urban community. In addition, none of the four stations owned by Citadel

cater to the urban community, and Buckley Broadcasting has two stations in this market and neither of its stations caters to the urban community.

Clear Channel Communications has seven stations in the Syracuse market, one of which, WPHR, has an urban format. With Clear Channel's recent purchase of a television station in Syracuse, the FCC has ruled that Clear Channel has exceeded the ownership limits in the Syracuse market and must divest either one of its radio stations or its Syracuse television station. If Clear Channel divests WPHR, there is a possibility that the new owner would change its format and leave the Syracuse community without an urban station, once again.

12. Short Broadcasting Co., Inc. vs. Clear Channel Communications

When WRDS was African American owned and urban formatted, it better served the Syracuse community than Clear Channel is currently doing with WPHR. WRDS was much more than a station that simply played hit music. Clear Channel, unlike Short Broadcasting, allows its disc jockey to use profanity on the air. Clear Channel, unlike Short Broadcasting uses on air positioning statements that contain profanity. Additionally, much of the rap music that airs on Clear Channel's urban and top forty stations has profanity in it. These lax standards result in unsuitable programming for children and teens. It is distasteful and degrading to women and self-respecting African Americans.

In addition, radio in Syracuse is quickly becoming a high tech jukebox with piped in syndicated programs that displace local broadcast professionals. Many of these stations appear to be heavily cluttered with frequent and lengthy clusters of commercials. I believe these factors are being driven by more stringent demands from corporate management and stockholders to generate higher profits and possibly due to heavy debt service obligations with the banks and investors. Certainly, the public at large is not the beneficiary of canned music programming combined with a bombardment of commercials. The broadcasters desire to cut costs and increase profit margin is coming greatly at the public's expense.

13. Conclusion

The Telecommunications Act of 1996 was a terrible change in the law that has resulted in taking the control of the airwaves out of the hands of local residents, and placing control into the hands of a few national media giants. Short Broadcasting, and many other minority owned companies have attempted over the years to serve the minority community. NABOB cited the FCC's own study which concluded that there is "empirical evidence of a link between race or ethnicity of broadcast station owners and contribution to diversity of news and public affairs programming across the broadcast spectrum." The study focused on news and public affairs programming, rather than entertainment programming, because it is news and public affairs programming which is most important to promotion of the Commission's diversity goals. The study provided empirical evidence that minority owned stations: (1) tailored their coverage of national news stories to address minority concerns, (2) covered major news stories their competitors did not cover. Minority owned stations pay special attention in public affairs programming to events or issues of greater concern to ethnic or racial minority audiences. Minority owned stations place greater effort into live coverage of government meetings, and into coverage of issues concerning women, particularly health issues, and to broadcasts in languages other than English. Minority owned stations staff their public affairs programming with minority employees, and use call-in formats, which enhance audience participation. Minority owned stations participate in minority-related events in their communities.

Approximately 11% of Americans report that radio is their primary source for news. This is about 24 million Americans. The primary source of news for 24 million Americans should not be in the hands of a small group of companies. Diversity in ownership will bring more local programming back to the airwaves. Diversity of ownership will create healthy business competition, among broadcasters that will benefit the public at large.

The Telecommunications Act of 1996 caused nearly half of the country's 12,000 radio stations to change hands by the end of 1998 and led to many African Americans and other minorities being forced out of the broadcasting industry. Aside from the current loss of service to the public this loss of African American owners reflects, it also has negative implications for the future of minorities in new technologies. The

companies that are leading the way in new technologies are primarily the companies currently in technology businesses. The loss of minority owned companies in the current technologies means that these companies will not be in place to lead the way into the new technologies.

The facts are clear and indisputable. The majority of all radio audiences receive programming provided by a handful of companies. In addition, the majority of all radio ad revenue is controlled by a few companies. Greed, control and power, have landed in the hands of a select few broadcasters at the expense of the American public.

The issue now before the Congress is this. Minorities were virtually shut out of ownership of the broadcast industry until 1978, when, with Congressional approval, the FCC adopted a policy to promote minority ownership of broadcast stations. The Telecommunications Act of 1996, in a few short years, has eliminated many of the gains of the preceding eighteen years. Now, one company, Clear Channel, touts itself as the largest programmer to minority audiences. However, it has done this by driving small, minority and local broadcasters out of the industry. And, it has driven these small broadcasters out of the business using questionable tactics, such as the discounted group sales strategies it used in Syracuse. Congress should not allow one company to dominate the radio industry to the exclusion of small, minority owned companies, and it should not allow the American people to have their programming dictated to them by a single company.

I am pleased to see that Senator Feingold has introduced legislation to slow the continued consolidation in the radio industry. I believe the legislation is long overdue, and I hope that it will be enacted so that other small and minority broadcasters will not be forced out of the business as I was. The First Amendment guarantees all Americans diversity of viewpoint. We need your help to preserve and guarantee that this right exists for all Americans, not just a select few.

Thank you for the opportunity to appear before you today.